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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

*2013-86*

13 **GIL R. LEIGHTY;**  
14 **AKA GIL REED LEIGHTY**  
15 **543 Promontory Drive East**  
**Newport Beach, CA 92660**

**A C C U S A T I O N**

16 **Registered Nurse License No. 426411**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, State of  
23 California.

24 2. On or about June 30, 1988, the Board of Registered Nursing issued Registered  
25 Nurse License Number 426411 to Gil R. Leighty, also known as Gil Reed Leighty (Respondent).  
26 The Registered Nurse License was in full force and effect at all times relevant to the charges  
27 brought herein and will expire on July 31, 2014, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480;  
or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be

1 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
2 and the board may inquire into the circumstances surrounding the commission of  
3 the crime in order to fix the degree of discipline or to determine if the conviction  
is substantially related to the qualifications, functions, and duties of the licensee in  
question.

4 As used in this section, "license" includes "certificate," "permit,"  
5 "authority," and "registration."

6 9. Section 2761 of the Code states:

7 The board may take disciplinary action against a certified or licensed  
8 nurse or deny an application for a certificate or license for any of the following:

9 (a) Unprofessional conduct, which includes, but is not limited to, the  
following:

10 ....

11 (f) Conviction of a felony or of any offense substantially related to the  
12 qualifications, functions, and duties of a registered nurse, in which event the  
record of the conviction shall be conclusive evidence thereof.

13 ....

14 10. Section 2762 of the Code states:

15 In addition to other acts constituting unprofessional conduct within the  
16 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct  
for a person licensed under this chapter to do any of the following:

17 ....

18 (b) Use any controlled substance as defined in Division 10 (commencing  
19 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
20 in a manner dangerous or injurious to himself or herself, any other person, or the  
public or to the extent that such use impairs his or her ability to conduct with safety  
21 to the public the practice authorized by his or her license.

22 (c) Be convicted of a criminal offense involving the prescription,  
consumption, or self-administration of any of the substances described in  
23 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
record pertaining to, the substances described in subdivision (a) of this section, in  
24 which event the record of the conviction is conclusive evidence thereof.

25 ....

26 11. Section 2765 of the Code states:

27 A plea or verdict of guilty or a conviction following a plea of *nolo*  
28 *contendere* made to a charge substantially related to the qualifications, functions  
and duties of a registered nurse is deemed to be a conviction within the meaning

1 of this article. The board may order the license or certificate suspended or  
2 revoked, or may decline to issue a license or certificate, when the time for appeal  
3 has elapsed, or the judgment of conviction has been affirmed on appeal or when  
4 an order granting probation is made suspending the imposition of sentence,  
5 irrespective of a subsequent order under the provisions of Section 1203.4 of the  
6 Penal Code allowing such person to withdraw his or her plea of guilty and to enter  
7 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
8 accusation, information or indictment.

## REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

- (a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.
- (b) Failure to comply with any mandatory reporting requirements.
- (c) Theft, dishonesty, fraud, or deceit.
- (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

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1 **COST RECOVERY**

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
3 the administrative law judge to direct a licensee found to have committed a violation or  
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
5 and enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(December 20, 2010 Criminal Conviction for Driving While Having a BAC Over .08**  
8 **Percent on August 21, 2010)**

9 15. Respondent has subjected his registered nurse license to disciplinary action under  
10 Code sections 490 and 2761, subdivision (f), in that he was convicted of a crime that is  
11 substantially related to the qualifications, functions, and duties of a registered nurse. The  
12 circumstances are as follows:

13 a. On or about December 20, 2010, in a criminal proceeding entitled *The*  
14 *People of the State of California v. Gil Reed Leighty*, in Orange County Superior Court, Harbor  
15 Justice Center, Newport Beach Facility - South, case number 10SM04075, Respondent was  
16 convicted on his plea of guilty to violating Vehicle Code (VC) section 23152, subdivision (b),  
17 driving with a blood alcohol concentration (BAC) of 0.08 percent or more, a misdemeanor.  
18 Respondent admitted and the court found true the allegation that Respondent's BAC was .20  
19 percent or more, a sentencing enhancement pursuant to VC section 23538, subdivision (b)(2). A  
20 charge for violating VC section 23152, subdivision (a), driving under the influence of alcohol  
21 (DUI), was dismissed pursuant to a plea bargain.

22 b. As a result of the conviction, on or about December 20, 2010, Respondent  
23 was sentenced to three years informal probation and ordered to serve two days in the Orange  
24 County Jail, with credit for two days served. Respondent was also ordered to enroll in and  
25 successfully complete a nine-month level 2 First Offender Alcohol Program and pay fines and  
26 fees.

27 c. The facts that led to the conviction are that on or about August 21, 2010,  
28 an Orange County Sheriff's Department Deputy contacted Respondent after observing him

1 weaving from the second lane to the first lane then back to the third lane on The Street of the  
2 Golden Lantern in Laguna Niguel, California. During the enforcement stop, the Deputy  
3 immediately smelled alcohol coming from inside Respondent's vehicle and noticed  
4 Respondent's bloodshot, watery eyes and slurred speech. During questioning, Respondent  
5 admitted to drinking three glasses of wine at Doheny Beach prior to apprehension. The Deputy  
6 administered a series of field sobriety tests (FSTs). Respondent also underwent a preliminary  
7 alcohol screening (PAS), which registered .240 and .254 percent BAC in the two succeeding  
8 breath tests administered. Based on Respondent's performance in the FSTs and the result of the  
9 PAS, he was arrested for DUI. At the Aliso Viejo Sub Station, Respondent chose to take a breath  
10 test, which registered .25 and .24 percent BAC in the two succeeding breath tests administered.

#### 11 **SECOND CAUSE FOR DISCIPLINE**

##### 12 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

13 16. Respondent has subjected his registered nurse license to disciplinary action under  
14 Code section 2762, subdivision (b), in that on or about August 21, 2010, as described in  
15 paragraph 15, above, he used alcoholic beverages to an extent or in a manner that was potentially  
16 dangerous and injurious to himself, and to others when he operated a motor vehicle while  
17 impaired with a significantly high BAC.

#### 18 **THIRD CAUSE FOR DISCIPLINE**

##### 19 **(Unprofessional Conduct - Conviction of an Alcohol Related Criminal Offense)**

20 17. Respondent has subjected his registered nurse license to disciplinary action under  
21 Code section 2762, subdivision (c), in that on or about December 20, 2010, as described in  
22 paragraph 15, above, he was convicted of a criminal offense involving the consumption of  
23 alcohol.

#### 24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
26 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

27 1. Revoking or suspending Registered Nurse License Number 426411, issued to Gil  
28 R. Leighty also known as Gil Reed Leighty;

2. Ordering Gil R. Leighty also known as Gil Reed Leighty to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

7/24/2012



for LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
State of California  
State of California  
Complainant

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